

(ii) Supportive services contracts (including service fees) under the Supportive Housing for the Elderly Program; and

(iii) Developer (consultant) contracts.

(b) *Identity of interest.* An identity of interest between the Sponsor or Owner (or Borrower, as applicable) and any development team member or between development team members is prohibited until two years after final closing.

**§ 891.135 Amount and terms of capital advances.**

(a) *Amount of capital advances.* The amount of capital advances approved shall be the amount stated in the notification of fund reservation, including any adjustment required by HUD before the final closing. The amount of the capital advance may not exceed the appropriate development cost limit.

(b) *Estimated development cost.* The amount of the capital advance may not exceed the total estimated development cost of the project (as determined by HUD), less the incremental development cost associated with excess amenities and design features to be paid for by the Sponsor under § 891.120.

**§ 891.140 Development cost limits.**

(a) HUD shall use the development cost limits, established by Notice in the FEDERAL REGISTER and adjusted by locality, to calculate the fund reservation amount of the capital advance to be made available to individual Owners. Owners that incur actual development costs that are less than the amount of the initial fund reservation shall be entitled to retain 50 percent of the savings in a Replacement Reserve Account. Such percentage shall be increased to 75 percent for Owners that add energy efficiency features.

(b) The Replacement Reserve Account established under paragraph (a) of this section may only be used for repairs, replacements, and capital improvements to the project.

**§ 891.145 Owner deposit (Minimum Capital Investment).**

As a Minimum Capital Investment, the Owner must deposit in a special escrow account one-half of one percent (0.5%) of the HUD-approved capital ad-

vance, not to exceed \$10,000, to assure the Owner's commitment to the housing. Under the Section 202 Program, if an Owner has a National Sponsor or a National Co-Sponsor, the Minimum Capital Investment shall be one-half of one percent (0.5%) of the HUD-approved capital advance, not to exceed \$25,000.

**§ 891.150 Operating cost standards.**

HUD shall establish operating cost standards based on the average annual operating cost of comparable housing for the elderly or for persons with disabilities in each field office, and shall adjust the standard annually based on appropriate indices of increases in housing costs such as the Consumer Price Index. The operating cost standards shall be developed based on the number of units. However, under the Section 811 Program and for projects funded under §§ 891.655 through 891.790, the operating cost standard for group homes shall be based on the number of residents. HUD may adjust the operating cost standard applicable to an approved project to reflect such factors as differences in costs based on location within the field office jurisdiction. The operating cost standard will be used to determine the amount of the project assistance initially reserved for a project.

**§ 891.155 Other Federal requirements.**

In addition to the requirements set forth in 24 CFR part 5, the following requirements in this § 891.155 apply to the Section 202 and Section 811 Programs, as well as projects funded under §§ 891.655 through 891.790. Other requirements unique to a particular program are described in subparts B and C of this part, as applicable.

(a) *Affirmative fair housing marketing.*

(1) The affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108; and

(2) The fair housing advertising and poster guidelines at 24 CFR parts 109 and 110.

(b) *Environmental.* The National Environmental Policy Act of 1969, HUD's implementing regulations at 24 CFR part 50, including the related authorities described in 24 CFR 50.4. For the purposes of Executive Order No. 11988,